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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/380,817	01/21/2000	HANS-DIETER REINARTZ	AP8957	3103

10291 7590 12/06/2001

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EXAMINER

PEREZ, GUILLERMO

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 12/06/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/380,817

Applicant(s)

REINARTZ ET AL.

Examiner

Guillermo Perez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 and 16-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14, 16-26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 14 recites the limitation: "*prior to assembly of the motor-driven pump unit, the conducting element maintains the carbon brush within the guide element*". The application as originally filed does not disclose those limitations. Those limitations are directed to a process of assembling, which is a different invention from a product claim.

Claim 16, recites the limitation: "*at least one carbon brush and the guide element are encompassed in the electronic unit*". The application as originally filed does not disclose those limitations. The drawings show that the brush and the guide element are encompassed by the pump housing, not the electronic unit.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 14, 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burgdorf et al. (U. S. Pat. No. 5,895,207) in view of L. R. Gute (U. S. Pat. No. 3,244,917) and further in view of Kohno et al. (U. S. Pat. 5,688,028).

Burgdorf et al. disclose a motor-driven pump unit (figures 9-10) for antilock brake systems of motor vehicles comprising:

an electric motor (1) that is arranged on one side of a pump unit (2) and fastened thereto,

an electronic unit (95) that is arranged on another side of the pump unit (2) and fastened thereto,

means (25, 98, 90) for mounting carbon brushes (8) and means (90) for the electric contacting of the carbon brushes in connection with the axial installation of the unit. Burgdorf et al. disclose one conducting element for each carbon brush which electrically contacts the carbon brush to the electronic unit. Burgdorf et al. disclose that the mounting means (25,98,90) is arranged in the pump unit (2). Burgdorf et al. disclose that the electronic unit (95) is provided with the means (25,98,90) for mounting and contacting the carbon brushes (8) in order to form an electric constructional unit.

Burgdorf et al. disclose that the electronic unit (95) has at least two guide elements (98, 25) for the carbon brushes (8). Burgdorf et al. disclose that the guide elements (98,25) are arranged at the ends of at least one protruding arm (98). Burgdorf et al. disclose that protruding arms (98) are provided corresponding to the number of carbon brushes (8). Burgdorf et al. disclose that the at least two protruding arms (98) are arranged concentrically to the motor shaft (4). Burgdorf et al. disclose that arms (98) extend parallel to the axis of the motor shaft (4) in the direction of the motor. Burgdorf et al. disclose that the at least two protruding arms (98) extend through the pump unit (2).

However, Burgdorf et al. do not disclose at least one carbon brush mounted in an axially movable manner within a guide element. Burgdorf et al. do not disclose that prior to assembly of the motor-driven pump unit, the conducting element maintains the carbon brush within the guide element. Burgdorf et al. do not disclose that the at least two guide elements for the carbon brushes are effective parallel to a rotary axis of a rotating shaft of the motor unit. Burgdorf et al. do not disclose that the guide elements are arranged in alignment with a commutator having a contact surface that is at a right angle to the rotary axis. Burgdorf et al. do not disclose that each guide element has a box that is open towards the motor for holding one of the carbon brushes in an axially movable manner. Burgdorf et al. do not disclose that each box is limited by a stop surface at an end facing away from the motor. Burgdorf et al. do not disclose that the stop surface is acted upon by a pressure spring, whose other end acts upon a carbon brush in the direction of the commutator. Burgdorf et al. do not disclose that the at least one carbon brush and the guide element are encompassed in the electronic unit.

L. R. Gute discloses at least one carbon brush mounted in an axially movable manner within a guide element. L. R. Gute discloses that the guide elements (36,38) are arranged at the ends of at least one protruding arm (36,38). L. R. Gute discloses that protruding arms (36,38) are provided corresponding to the number of carbon brushes (64,66). L. R. Gute discloses that the at least two protruding arms (36,38) are arranged concentrically to the motor shaft (54). L. R. Gute discloses that arms (36,38) extend parallel to the axis of the motor shaft (54) in the direction of the motor. L. R. Gute discloses that the at least two guide elements (36,38) for the carbon brushes (64,66) are effective parallel to a rotary axis of a rotating shaft (54) of the motor unit.

L. R. Gute discloses that the guide elements (36,38) are arranged in alignment with a commutator (58) having a contact surface (60) that is at a right angle to the rotary axis (54). L. R. Gute discloses that each guide element (36,38) has a box that is open towards the motor for holding one of the carbon brushes (64,66) in an axially movable manner. L. R. Gute discloses that each box is limited by a stop surface at an end facing away from the motor. L. R. Gute discloses that the stop surface is acted upon by a pressure spring (68,70), whose other end acts upon a carbon brush (64,66) in the direction of the commutator (58). L. R. Gute's invention has the purpose of providing a compact and economic to manufacture motor.

Kohno et al. disclose that the at least one carbon brush (27 in figure 8A) and the guide element (27a) are encompassed in the electronic unit (30,32). Kohno et al. disclose that the electronic unit (30,32) has at least two carbon brushes (27), which are effective parallel to a rotary axis of a rotating shaft (3) of the motor unit. Kohno et al.

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disclose that the carbon brushes (27) are arranged in alignment with a commutator (26) having a contact surface (26a) that is at a right angle to a rotary axis of the motor shaft (3). The invention of Kohno et al. has the purpose of reducing the axial size of the embodiment.

It would have been obvious at the time the invention was made to modify the motor-driven pump unit of Burgdorf et al. and provide it with the carbon brushes, guiding members, protruding arms, and electronic unit configuration disclosed by L. R. Gute and Kohno et al. for the purpose of providing a compact and economic to manufacture motor.

Referring to claim 1, no patentable weight has been given to the method of manufacturing limitations (i. e. *prior to assembly, the conducting element maintains the carbon brush within the guide element*) since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

### ***Response to Arguments***

Applicant's arguments with respect to claims 14-26 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guillermo Perez whose telephone number is (703) 306-5443. The examiner can normally be reached on Monday through Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308 1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305 3432 for regular communications and (703) 305 3432 for After Final communications.




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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

Guillermo Perez  
December 2, 2001



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